

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 The Committee on Local Government & Veterans Affairs offered
12 the following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

18 Section 1. Section 1 of chapter 93-367, Laws of
19 Florida, as amended by chapter 99-437, Laws of Florida, is
20 amended to read:

21 Section 1. Employees of the Palm Beach County Sheriff;
22 applicability of act; permanent status of employees;
23 transition; administration.--

24 (1) CAREER SERVICE EMPLOYEES.--The term "career
25 service employee" as used in this act shall mean the following
26 personnel: deputy sheriffs of nonsupervisory rank who have
27 completed their probationary period; Law Enforcement and
28 Corrections Sergeants, Lieutenants, Captains, Majors,
29 Colonels, Undersheriffs, or others holding sworn supervisory
30 or executive staff rank, who have either been promoted through
31 the ranks from a nonsupervisory, nonmanagerial rank and who

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1 have at least 5 years of full-time, sworn law enforcement or
2 sworn corrections service with the Sheriff's Office or who
3 otherwise have at least 10 years of full-time, sworn law
4 enforcement or sworn corrections service with the Sheriff's
5 Office, whether such time is continuous or not. During any
6 transition, the Undersheriff, Colonels, Majors, or others
7 holding sworn supervisory or executive staff rank who are
8 career service employees may only be reduced to the rank of
9 Captain (sworn). Career service employees below the rank of
10 Major shall not be subject to dismissal or demotion without
11 just cause. The term "career service employee" as used in this
12 act shall also mean the following personnel: nonmanagerial
13 non-sworn personnel who have completed their probationary
14 period and non-sworn supervisors, managers, and non-sworn
15 equivalents of Colonel, Major, or others holding non-sworn
16 supervisory or executive staff rank who have either been
17 promoted through the ranks from a nonsupervisory,
18 nonmanagerial position and have at least 5 years of full-time
19 service with the Sheriff's Office, or who otherwise have at
20 least 10 years of full-time service with the Sheriff's Office,
21 whether such time is continuous or not. During any transition,
22 the non-sworn equivalents of Colonel, Major, or others holding
23 non-sworn supervisory or executive staff rank who are career
24 service employees may only be reduced to the non-sworn
25 equivalent of the rank of Captain.~~those employees hired at~~
26 ~~the entry level who have successfully completed their~~
27 ~~probationary period. Colonels, Majors, Directors, or their~~
28 ~~executive staff equivalents promoted through the ranks shall~~
29 ~~be considered career service employees, and during any~~
30 ~~transition may only be reduced to the rank of Captain or its~~
31 ~~civilian equivalent. Colonels, Majors, Directors, or their~~

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1 ~~executive staff equivalents appointed by the Sheriff laterally~~
2 ~~must have completed 10 years of service in the appointed rank~~
3 ~~to be considered career service employees. The Undersheriff~~
4 ~~shall at no time be considered a career service employee.~~

5 Career service employees below the non-sworn equivalent of the
6 rank of Major or its civilian equivalent shall not be subject
7 to dismissal or demotion without just cause.

8 (2) APPLICABILITY.--

9 (a) The provisions of this act shall apply to all
10 certified and noncertified persons in the employ of the
11 Sheriff of Palm Beach County, including deputy sheriffs. The
12 provisions of this act do not apply to the Sheriff,
13 ~~Undersheriff~~, special deputies appointed pursuant to s.
14 30.09(4), Florida Statutes, members of the Sheriff's posse,
15 reserve units, or persons appointed as part-time deputy
16 sheriffs, as defined by the Criminal Justice Standards and
17 Training Commission, unless any such person is also employed
18 full time by the Office of the Sheriff. As used in this act,
19 the terms "employee," "employ," and "employment" refer to all
20 persons, whether employed or appointed, to whom the act
21 applies.

22 (b) Nothing in this act shall be construed as
23 affecting the budget-making authority and power of the Palm
24 Beach County Board of County Commissioners.

25 (c) Approved and authorized reductions in staff shall
26 be accomplished on a seniority basis within the Office of the
27 Sheriff.

28 (3) CAREER SERVICE STATUS; CAUSE FOR SUSPENSION OR
29 DISMISSAL.--

30 (a) When an employee of the Sheriff to whom the
31 provisions of this act apply has served in such employment for

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1 a period of 1 calendar year from the date the employee first
2 enters the Sheriff's orientation program or the beginning of
3 field training, whichever comes first, such employee shall
4 have attained career service status in the Office of the
5 Sheriff; however, if an employee is placed on disciplinary
6 probation for a period of 6 months or more or is terminated
7 and rehired at a later date, the employee shall be required to
8 complete 1 calendar year of service from the date of the
9 disciplinary action before being granted the right to appeal
10 as provided in section 2. Any employee who is required to
11 serve a probationary period attendant to a promotion shall
12 retain permanent status in the Office of the Sheriff, but may
13 be returned to his prior rank during such probationary period
14 without the right of appeal as provided in section 2. For the
15 purpose of determining career service status as defined by the
16 provisions of this act, all time in the employment of the
17 Office of the Sheriff while in the police academy or other
18 comparable training for certification as a sworn officer or
19 deputy sheriff shall not be counted or considered in any
20 manner in determining whether the employee has attained 1
21 calendar year of minimum service for career service
22 protection.

23 (b) Any employee who has achieved career service
24 status in the Office of the Sheriff may only be suspended or
25 dismissed for cause, provided that, prior to such action, the
26 employee has been furnished written notice of the proposed
27 action and has been offered an opportunity to respond to the
28 reasons for the suspension or dismissal. In extraordinary
29 situations, however, such as when delay could result in damage
30 or injury, an employee may be suspended or dismissed
31 immediately and then provided notice thereof and reasons

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1 therefor within 48 hours, or as soon as is practical if
2 circumstances surrounding such extraordinary situation makes
3 notice within 48 hours impractical. Cause for suspension or
4 dismissal includes, but is not limited to, negligence,
5 inefficiency, or inability to perform assigned duties,
6 insubordination, violation of provisions of law or office
7 rules, conduct unbecoming a public employee, misconduct, proof
8 of alcohol abuse, proof of abuse of prescription drugs, or
9 proof of use of illegal drugs. Cause for suspension or
10 dismissal also includes, but is not limited to, adjudication
11 of guilt by a court of competent jurisdiction, a plea of
12 guilty or of nolo contendere, or a verdict of guilty when
13 adjudication of guilt is withheld and the accused is placed on
14 probation, with respect to any felony, misdemeanor, or major
15 traffic infraction. The filing by a law enforcement agency of
16 felony, misdemeanor, or major traffic infraction charges
17 against an employee or an arrest of an employee for such
18 infractions constitutes cause for suspension.

19 (4) TRANSITION OF EMPLOYEES.--

20 (a) When a newly elected or appointed Sheriff assumes
21 office, the new Sheriff shall continue the employment of all
22 currently employed career service personnel unless cause for
23 dismissal, as provided herein, exists. The incoming Sheriff
24 may maintain the current staff personnel assigned to the
25 position of Undersheriff, Colonel, Major, Director, Assistant
26 Director, or their executive staff equivalents. However, in
27 the event that the incoming Sheriff fills such positions with
28 new personnel, the current occupants of those positions who
29 are career service employees shall be reduced to no lower than
30 the rank of Captain, or its equivalent, which rank shall be
31 permanent unless later reduced by disciplinary demotion. Their

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1 salaries may be reduced accordingly, provided, however, that
2 any reduction in salary shall constitute the least financial
3 impact to the career service employee within the existing
4 Captain or Captain-equivalent pay scale. Actions taken
5 pursuant to this subsection affecting the Undersheriff,
6 Colonels, Majors, Directors, Assistant Directors, or their
7 executive staff equivalents shall not be appealable under
8 section 2.

9 (b) Dismissals or demotions pursuant to
10 across-the-board actions directed by the Palm Beach County
11 Board of County Commissioners, resulting from county fiscal
12 impacts, shall not be appealable under the provisions of
13 section 2.

14 (5) ADMINISTRATION.--The Sheriff shall have the full
15 authority to adopt such rules, regulations, and procedures
16 necessary for the administration and implementation of this
17 act. The rules, regulations, and procedures shall meet or
18 exceed approved Standards of Accreditation for Law Enforcement
19 Agencies.

20 Section 2. Section 2 of chapter 93-367, Laws of
21 Florida, as amended by chapter 98-517, Laws of Florida, is
22 amended to read:

23 Section 2. Hearing review boards; function;
24 membership; procedures.--

25 (1) FUNCTION OF BOARDS.--Ad hoc hearing review boards
26 shall be appointed as provided herein for the purpose of
27 hearing appeals of career service employees arising from
28 personnel actions brought under the rules, regulations, or
29 policies of the Office of the Sheriff which result in
30 dismissal, suspension, demotion, or reduction in pay. Lateral
31 transfers, shift changes, reprimands, oral or written, and

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1 suspensions of 2 working days or less shall not be appealable
2 to the board; however, no more than one such action of
3 suspension may occur within 1 calendar year without the right
4 to appeal. The scope of the review board is limited to
5 disciplinary proceedings and termination actions. Review
6 boards have the authority to conduct hearings and make
7 findings of fact and recommendations to the Sheriff. The
8 Sheriff shall ~~not~~ be bound by the findings or recommendations
9 of the majority of the board. There shall be no further
10 appeals such boards, but will consider them in making his
11 final decision. Except in the case of termination, the
12 decision of the Sheriff is final and not appealable within the
13 office.

14 (2) MEMBERSHIP AND RESPONSIBILITY OF BOARD.--

15 (a) There shall be a fixed pool of board members
16 mutually agreed upon by the Sheriff and any labor organization
17 representing the employees of the Sheriff's Office. If any
18 group of employees has a certified bargaining agent, the pool
19 of Hearing Review Board members for that certified bargaining
20 unit shall be mutually agreed upon by the Sheriff and the
21 collective bargaining representative for said bargaining unit.
22 The pool of board members shall be identified as follows: the
23 Sheriff shall nominate 50 potential board members for the
24 sworn law enforcement discipline, 50 potential board members
25 for the sworn corrections discipline, and 50 potential board
26 members for the non-sworn administrative employees. In
27 addition, the Sheriff shall designate seven potential
28 chairpersons above the rank of Lieutenant, or the civilian
29 equivalent, for each employee discipline as stated herein. To
30 be named as a potential board member, an employee must have at
31 least 3 years of full-time experience with the Sheriff's

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1 Office, have above-average evaluations for the previous 3
2 years, and have no discipline above a written reprimand for
3 the prior 2 years. Every employee of the Sheriff's Office
4 shall have a right to decline nomination as a potential
5 designee. The certified bargaining agent or, if there is none,
6 a committee elected by a majority of the employees voting
7 within a discipline shall take turns, in alphabetical order,
8 striking the names of the Sheriff's nominees in order to
9 arrive at a permanent list of 15 Hearing Review Board member
10 designees, and five alternates, who shall serve a term of 3
11 years. The board member designees and alternates shall be
12 removed from the established list if they receive any
13 discipline above a written reprimand during their term.

14 (b)(a) The Hearing Review Board shall consist of five
15 members of the Sheriff's Office selected from the same
16 discipline as the aggrieved employee of the Sheriff. The
17 Sheriff shall select two members of the board from the
18 established list of Hearing Review Board member designees,
19 with at least one member above the rank of Lieutenant to serve
20 as the board chairperson. Two members of the board shall be
21 selected by the employee requesting the hearing from the
22 established list of Hearing Review Board member designees. The
23 fifth member shall be selected by the other four members. Each
24 selected member shall have the right to decline to serve for
25 good cause.

26 (c)(b) All members of the Hearing Review Board shall
27 be selected on the basis of fairness, objectivity, and
28 impartiality. No member of the board shall be above the rank
29 of Captain, or its civilian equivalent, nor shall any member
30 of the board be on probationary status. Any person who is in
31 any way involved in or associated with the matter being

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1 brought before the Hearing Review Board shall not serve as a
2 member or chairperson of said board. No member or chairperson
3 of a Hearing Review Board, who in good faith serves in such
4 capacity, shall suffer risk of retaliation from the agency or
5 from employees of the agency, including the employee who
6 requested the Hearing Review Board, as a result of his or her
7 service on the board.The board shall have no investigative
8 powers and shall function in the capacity of a fact finder in
9 an effort to arrive at a fair and equitable recommendation in
10 all matters brought before it. Selected members shall have no
11 involvement with the issues under consideration. Membership on
12 of the board is not mandatory voluntary and without
13 remuneration. However, all members shall serve on an "on-duty
14 status."Members will not discuss matters to be heard before
15 the board until the board convenes.

16 (d)(e) The Hearing Review Board chairperson shall have
17 the responsibility to:

18 1. Chair all meetings utilizing parliamentary rules of
19 order.

20 2. Convene an organizational meeting of the board to
21 select a fifth member.

22 3. Request that the employee provide the names of any
23 witnesses and a short statement of material facts which that
24 witness is expected to testify about.

25 4. Schedule and provide written notification of all
26 meetings to the Internal Affairs Bureau, witnesses, board
27 members, and employees.

28 5. Provide copies of all charges to board members.

29 6. Ensure compliance with hearing procedures.

30 7. Request that the employee furnish copies of all
31 exhibits to be introduced at the hearing.

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1 (3) PROCEDURE WITH RESPECT TO HEARINGS.--

2 (a) Any career service employee may request a hearing
3 before the Hearing Review Board for any appealable
4 disciplinary action of his or her superiors which adversely
5 affects his or her employment.

6 (b) Requests for a hearing shall be made in writing to
7 the employee's immediate supervisor within 10 business working
8 days, from Monday through Friday, excluding holidays observed
9 by the Sheriff's Office,of notice of appealable disciplinary
10 action. The request shall contain a brief statement of the
11 matters to be considered by the board and the names of the two
12 employees selected to be members of the board.

13 (c) The immediate supervisor shall forward the hearing
14 request to the Sheriff and the appropriate division commander
15 without delay. The Hearing Review Board will be impaneled and
16 a hearing date will be scheduled by the Sheriff within 10
17 business working days, from Monday through Friday, excluding
18 holidays observed by the Sheriff's Office,of receipt.

19 (d) Legal questions or case law must be submitted to
20 the chairperson 10 business days, from Monday through Friday,
21 excluding holidays observed by the Sheriff's Office,before
22 the board convenes.

23 (e) The employee or his or her representative has the
24 right to be present, to present a his case, to explain or
25 defend, and to cross-examine ~~cross-examine~~ all witnesses and
26 complainants, provided that neither the employee nor his or
27 her representative shall disrupt the proceedings.

28 (f) The employee has the right to be represented
29 during the hearing by counsel or other representative of
30 choice who shall serve as an observer and advisor to the
31 employee. ~~The representative may not actively participate in~~

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1 ~~the proceedings.~~

2 (g) The employee shall not discuss the circumstances
3 of the matter being brought before the board except through
4 the chairperson.

5 (h) All witnesses shall be notified in writing of the
6 date and time of the Hearing Review Board ~~through the~~
7 ~~appropriate chain of command~~ by the chairperson of the board.
8 Employee witnesses shall be notified through the appropriate
9 chain of command. All employee witnesses notified by the
10 chairperson of the board shall be required to appear to
11 testify before the board.~~Written statements from nonemployee~~
12 ~~witnesses should be used in lieu of personal appearance.~~
13 ~~Nonemployee witnesses should only be called to appear before~~
14 ~~the board at the request of the board.~~

15 (4) CONDUCT OF HEARING.--

16 (a) Hearing review boards are designed to determine
17 the truth while maintaining an atmosphere of fundamental
18 fairness and shall not be controlled by civil or criminal
19 rules of procedure.

20 (b) Board members are authorized to receive verbal or
21 written testimony concerning any matter considered relevant by
22 the board. The board may review any record, including, but not
23 limited to, performance evaluations and disciplinary files.

24 (c) Employees and their representatives shall have an
25 opportunity to present evidence, conduct cross-examination
26 ~~cross examination~~, and submit rebuttal evidence.

27 (5) FINDINGS AND RECOMMENDATIONS OF THE REVIEW
28 BOARD.--

29 (a) Each complaint shall receive a separate finding
30 and recommendation by the majority of the board. Each finding
31 shall consider the seriousness of the complaint, any

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1 extenuating circumstances, the tenure of the employee, and
2 past conduct record. The board shall submit to the Sheriff its
3 written findings of fact and recommendations within 5 business
4 days, from Monday through Friday, excluding holidays observed
5 by the Sheriff's Office, after the hearing.

6 (b) The board may place before the Sheriff any
7 recommended disposition of the charges before it that the
8 board believes may be of benefit to the Office of the Sheriff,
9 including, but not limited to: no disciplinary action; oral or
10 verbal reprimand; suspension; reduction of rank; termination
11 of employment; sustaining or reversing the original policy
12 violation charged decision; or recommending a more severe
13 disposition.

14 ~~(c) The Sheriff will review the findings and~~
15 ~~recommendations of the board and may either approve or~~
16 ~~disapprove them. The Sheriff has the sole discretion to~~
17 ~~overrule the findings of the board.~~

18 ~~(c)(d)~~ The Sheriff will notify the employee of the
19 final results of the Hearing Review Board ~~and the reasons~~
20 ~~therefor.~~

21 ~~(d)(e)~~ In the event the employee's discipline is
22 reduced ~~employee is exonerated,~~ the employee shall be returned
23 to work ~~reinstated~~ without prejudice or penalty.

24 ~~(e)(f)~~ When summary discipline is imposed by any
25 supervisor, the Sheriff may order a board to convene and
26 review the action of the supervisor.

27 ~~(g) Except for termination, there shall be no further~~
28 ~~appeals within the Office of the Sheriff. Terminations may be~~
29 ~~appealed to the Termination Review Board.~~

30 ~~(f)(h)~~ All proceedings of the board shall be recorded
31 and retained by the Internal Affairs Bureau. Rest periods

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1 shall be duly noted and there shall be no unrecorded questions
2 or statements by any parties or witnesses. Recordings shall be
3 properly marked and identified prior to filing.

4 ~~(g)(i)~~ All associated reports, paperwork, and
5 personnel action taken as a result of the Hearing Review Board
6 shall be retained by the Internal Affairs Bureau.

7 (6) CRIMINAL CHARGES ~~TERMINATION REVIEW BOARD~~.--

8 ~~(a) In the event of termination, the employee may~~
9 ~~request that the termination decision be resubmitted to the~~
10 ~~board which originally heard the appeal within 10 days of~~
11 ~~notice of termination.~~

12 ~~(b) Upon review of their original recommendation and~~
13 ~~the Sheriff's rationale for termination, the board may uphold~~
14 ~~or reverse the decision of the Sheriff, provided that any~~
15 ~~reversal shall require at least four members of the board~~
16 ~~voting to reverse. The reversal shall be binding upon the~~
17 ~~Sheriff.~~

18 ~~(c) In the event the termination is based upon~~
19 ~~criminal charges, the charges must be disposed of prior to a~~
20 ~~determination by the Hearing ~~Termination~~ Review Board.~~

21 Section 3. Section 3 of chapter 93-367, Laws of
22 Florida, as amended by chapters 96-450, 97-325, and 98-517,
23 Laws of Florida, is amended to read:

24 Section 3. Preservation of employment benefits and
25 emoluments.--

26 (1) The provisions of this section shall apply to all
27 certified and noncertified persons in the employ of the
28 Sheriff of Palm Beach County, including deputy sheriffs, as
29 specified in section 1(2)(a) of chapter 93-367, Laws of
30 Florida, ~~except that this section shall not apply to those~~
31 ~~employees beyond the rank of Captain or its civilian~~

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1 equivalent.

2 (2) Existing employer-paid benefits and emoluments
3 with regard to the pay plan, longevity plan,
4 tuition-reimbursement plan, career-path program, health
5 insurance, life insurance, and disability benefits may not be
6 substantially reduced, except in the case of exigent
7 operational necessity, ~~except all moneys which would have been~~
8 ~~allocated to longevity pay for those at the rank of captain or~~
9 ~~its civilian equivalent shall be disbursed in accordance with~~
10 ~~objective performance-related criteria. The objective~~
11 ~~performance-related criteria shall take into consideration~~
12 ~~input from a committee including those at the rank of captain~~
13 ~~or its civilian equivalent.~~

14 (3) Nothing in this act shall preclude the Sheriff
15 from enhancing those benefits and emoluments for employees ~~and~~
16 ~~appointees~~ of the Palm Beach County Sheriff's Office.

17 (4) Nothing in this act shall be construed as
18 affecting the budget-making authority and power of the Palm
19 Beach County Board of County Commissioners.

20 Section 4. Section 4 is added to chapter 93-367, Laws
21 of Florida, to read:

22 Section 4. Collective bargaining status.--

23 (1) It is the intent of this act that all full-time
24 deputy sheriffs, as defined in this act, shall be deemed
25 "public employees," as defined in part II of chapter 447,
26 Florida Statutes.

27 (2) Deputy sheriffs, in their status as public
28 employees, shall be entitled to all rights, privileges, and
29 obligations granted by law, including the right to organize
30 and collectively bargain, pursuant to part II of chapter 447,
31 Florida Statutes.

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1 Section 5. This act shall take effect upon becoming a
2 law.

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4

5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 On page ,
8 remove from the bill: the entire title

9

10 and insert in lieu thereof:

11 A bill to be entitled
12 An act relating to Palm Beach County; amending
13 chapter 93-367, Laws of Florida, as amended;
14 defining "career service employee" and
15 providing restrictions for reduction in rank of
16 certain employees; providing applicability;
17 specifying rights of such employees; revising
18 procedures for appeal of disciplinary actions
19 and complaints against employees of the
20 Sheriff; revising provisions for the
21 appointment of boards to hear appeals and
22 procedures with respect thereto; revising
23 provisions relating to monetary emoluments
24 based on performance; extending collective
25 bargaining status to deputy sheriffs; providing
26 an effective date.

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